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OFFICE OF SALES AND EXCISE TAXES

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Dear Retailer:

The Department of Revenue (DOR), Division of Sales and Use Tax, is sending this correspondence to inform you of a new use tax notice requirement authorized by House Bill 440 passed in the 2013 Regular Session of the Kentucky General Assembly. This requirement affects retailers who make sales into Kentucky but who are not required to collect Kentucky sales and use tax and are not currently registered to do so.

Effective July 1, 2013, out-of-state retailers with no legal requirement to collect tax in this state, and who expect more than \$100,000 in gross annual sales to Kentucky residents, must notify their Kentucky customers that use tax must be reported and paid directly to the Department of Revenue on applicable purchases in accordance with KRS 139.450. This notification must be posted on the retailer's website (includes online auction websites), in retail catalogs and on any electronic confirmation order or other invoicing documents.

However, rather than inserting the notification on various sales documents and platforms, the required notification detail may be provided as a supplemental page or by electronic link (see further detail below). In addition, retailers are prohibited from stating or implying on their websites or in their catalogs that there is no Kentucky tax due on such purchases.

The notice must be readily visible and contain the information set forth as follows:

- The retailer is not required to and does not collect Kentucky sales or use tax;
- The purchase may be subject to Kentucky use tax unless the purchase is exempt from taxation in Kentucky;
- The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means; and
- The Commonwealth of Kentucky requires Kentucky purchasers to report all purchases of tangible personal property or digital property that are not taxed by the retailer and pay use tax on those purchases unless exempt under Kentucky law. The tax may be reported and paid on the Kentucky individual income tax return or by filing a consumer use tax return with the Kentucky Department of Revenue.

The referenced forms and corresponding instructions can be found on DOR's website at <http://revenue.ky.gov/individual/usetax.htm>.



A retailer that chooses to adopt the alternate supplement page notification must provide a prominent reference to a supplemental page in the retailer's catalog or the retailer's website or a prominent linking notice that states:

“See important Kentucky sales and use tax information regarding tax you may owe directly to the Commonwealth of Kentucky.”

If a retailer is required to provide a similar notice for another state in addition to Kentucky, the retailer may provide a consolidated notice so long as such notice includes the information required, specifically references Kentucky and meets the placement requirements.

Please refer to KRS 139.450 for further details regarding these use tax notification requirements. This statute can be accessed at the following link: <http://www.lrc.ky.gov/Statutes/statute.aspx?id=42621>.

If you have questions regarding this correspondence, please contact the Division of Sales and Use Tax for assistance as provided below.

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